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09/870,858	05/30/2001	Todd D. Andersen	P1065	8680
7590 11/21/2005			EXAMINER	
Todd N. Hathaway 119 N. Commercial St., #620 Bellingham, WA 98225-4437			BRITTAIN, JAMES R	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/870,858

Applicant(s)

ANDERSEN ET AL.

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 15-19, 21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 15-19, 21 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Allowable Subject Matter*

The indicated allowability of claims 16, 22 and 23 is withdrawn after further review in view of Spencer (US 794561) and the newly discovered reference(s) to Dinkins (US 5245715) and Miller et al. (US 3896527) and further review of the claimed subject matter. Rejections based on the newly cited reference(s) and further review of the claimed subject matter follows. The inconvenience to applicant is regretted.

### *Priority*

The priority benefit under 35 U.S.C. 119(e) is recognized.

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter of claim 23 comprising a species with a "finger-operable adjustment screw" (line 9) with a "stop member comprising: a raised projection formed on said shaft portion of said screw for bearing against an inner surface of said mid-area of at least one of said jaw portions so as to limit movement of said jaw portion as said adjustment screw is tightened" (lines 16-19) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. The originally filed specification describes the stop member on page 6, lines 10-21, only with the species of figures 4 and 5. This species has no "finger-operable adjustment screw" that is "tightened". A knob 76 is "finger-operated" not the screw and this claim completely lacks the internally threaded knob. Therefore, the subject matter of this claim is not shown in the figures since the screw of the species shown in figures 4 and 5 is not operated or turned so as to be tightened, rather it is the knob that it

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turned so as to tighten. Since review shows that the subject matter of this claim was first placed in the case by the amendment received October 9, 2002, this subject matter is not supported in the original drawings.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 23 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described

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in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The subject matter of claim 23 comprising a species with a "finger-operable adjustment screw" (line 9) with a "stop member comprising: a raised projection formed on said shaft portion of said screw for bearing against an inner surface of said mid-area of at least one of said jaw portions so as to limit movement of said jaw portion as said adjustment screw is tightened" (lines 16-19) is new matter unsupported by the specification as filed. The originally filed specification describes the stop member on page 6, lines 10-21, only with the species of figures 4 and 5. This species has no "finger-operable adjustment screw" that is "tightened". A knob 76 is "finger-operated" not the screw. Claim 23 lacks the internally threaded knob completely so as to perform the tightening function in conjunction with the screw fixed non-rotatably to a jaw portion. Therefore, the subject matter of this claim is not shown in the figures since the screw of the species shown in figures 4 and 5 is not operated or turned so as to be tightened, rather it is the knob that it turned so as to tighten and there is no internally threaded knob in this claim. Since review shows that the subject matter of this claim was first placed in the case by the amendment received October 9, 2002, this subject matter is not supported in the original drawings.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

This claim is incomplete as it appears to lack the first line defining the adjustable clip assembly.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

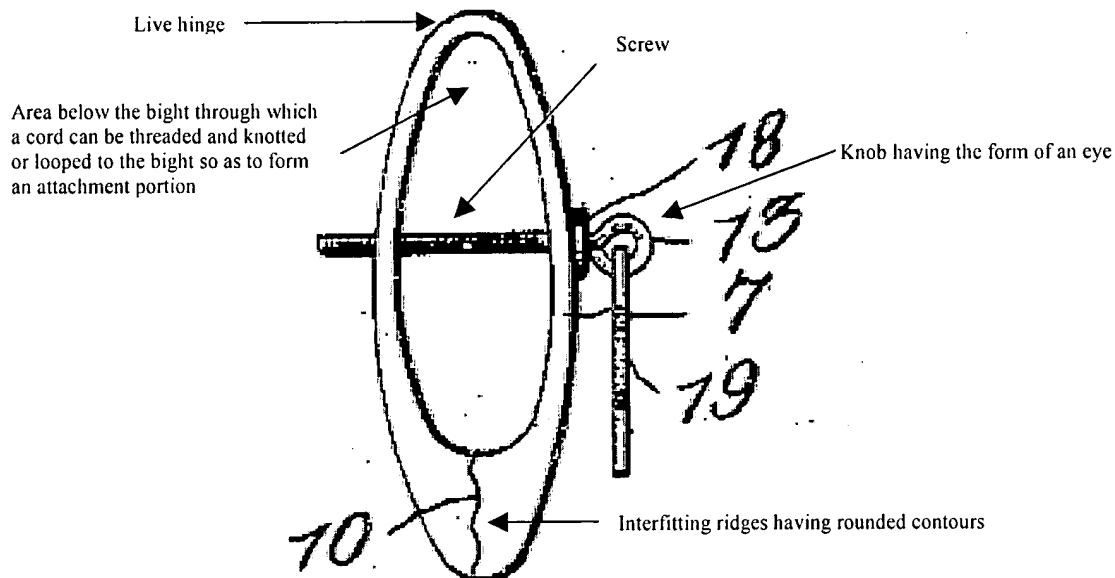
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Spencer (US 794561).

Spencer (figure 5) teaches an adjustable clip assembly, comprising: first and second, opposing jaw portions made from a single spring member 7 made of resilient material, the jaw portions having first ends that are joined together and second ends that are spread apart so as to define a receiving area the jaw portions having first and second contoured surfaces inherently usable for engaging sheet material of a tarp positioned within the receiving area, the contoured surfaces comprising a plurality of transverse interfitting, non-interlocking ridges formed on the first and second jaw portions, the interfitting ridges having rounded contours so as to be inherently capable of avoiding damage of the sheet material of a tarp held therein; and a finger-operable adjustment screw 13 interconnecting the first and second jaw portions, for adjustably urging the jaw portions into gripping engagement with an article positioned within the receiving area.

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In regard to claim 2, the connected jaw portions is formed by a single spring material that is bent or bowed so that the ends are brought toward each other (page 1, lines 52-56) so that is clear that there is an elastic restoring force to bias the jaws away from each other and further the assemble clasps the secured article by having its jaws drawn together by the screw 13 so that it is clear that the spring nature of the material biases the jaws away from each other.

As to claim 4, the single piece of resilient material is a unitary structure inherently capable of being molded and the process step provides no further structure different from that disclosed by Spencer.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spencer (US 794561) in view of Kelly (US 4097169).

Spencer (figure 5) teaches an adjustable clip assembly, comprising: first and second, opposing jaw portions made from a single spring member 7 made of resilient material, the jaw portions having first ends that are joined together and second ends that are spread apart so as to define a receiving area the jaw portions having first and second contoured surfaces inherently usable for engaging sheet material of a tarp positioned within the receiving area, the contoured surfaces comprising a plurality of transverse interfitting, non-interlocking ridges formed on the first and second jaw portions, the interfitting ridges having rounded contours so as to be inherently capable of avoiding damage of the sheet material of a tarp held therein; and a finger-operable adjustment screw 13 interconnecting the first and second jaw portions, for adjustably urging the jaw portions into gripping engagement with an article positioned within the receiving area. The difference is that the threaded shaft has the knob 13 integral therewith and there is a threaded opening on the jaw furthest from the knob 13 so as to receive the screw rather than there being the opposite situation of the head fixed to a jaw and the knob forming a nut to effect the clamping. However, Kelly (figures 1-4) teaches clamp structure for a tarpaulin including first and second opposing jaw portions, the jaw portions having first ends 25, 26 joined together and second ends 15, 16 that are spread apart so as to define a receiving area. There is a screw operator 52 with a wing nut 53 acting as a knob for bringing the jaws into engagement. Having the wing nut receiving the screw permits ready view of the knob and threaded end of the screw on the same side of the clamp so as to make it easier to view both at the same time and not over



loosen the screw to the point of its removal from the receiving threaded member. As the securement of the clamp and maintaining of the screw in the receiving threaded member is important, it would have been obvious to modify the clamp assembly of Spencer so that the threaded end of the screw extends through the knob as taught by Kelly so as to permit ready view of the knob and threaded end of the screw on the same side of the clamp so as to make it easier to view both at the same time and not over loosen the screw to the point of its removal from the receiving threaded member.

Claims 15, 16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spencer (US 794561) in view of Miller et al. (US 3896527).

Spencer (figure 5) teaches an adjustable clip assembly, comprising: first and second, opposing jaw portions made from a single spring member 7 made of resilient material, the jaw portions having first ends that are joined together and second ends that are spread apart so as to define a receiving area the jaw portions having first and second contoured surfaces inherently usable for engaging sheet material of a tarp positioned within the receiving area, the contoured surfaces comprising a plurality of transverse interfitting, non-interlocking ridges formed on the first and second jaw portions, the interfitting ridges having rounded contours so as to be inherently capable of avoiding damage of the sheet material of a tarp held therein; and a finger-operable adjustment screw 13 interconnecting the first and second jaw portions, for adjustably urging the jaw portions into gripping engagement with an article positioned within the receiving area. The difference is that the ridges lack surface texturing in the form of a multiplicity of small, raised protrusions forming a grainy surface for engaging a tarp. However, Miller et al. (figures 1, 3) teaches that in the environment of rounded ridges 15 acting as jaws for gripping

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sheet material that it is desirable to further provide a surface texturing in the form of a multiplicity of small, raised protrusions 34 forming a grainy surface to enhance the gripping effect of the jaw portions (col. 4, line 62 - col. 5, line 1). Since enhancement of the gripping effect of the undulating jaws of Spencer would be desirable for further maintaining the held object within the jaws in the event of being tossed about or pulled, it would have been obvious to modify clamp of Spencer so that the gripping jaws have surface texturing in the form of a multiplicity of small, raised protrusions forming a grainy surface for engaging a tarp in view of Miller et al. (figures 1, 3) teaching that it is desirable to further provide a surface texturing in the form of a multiplicity of small, raised protrusions 34 forming a grainy surface to enhance the gripping effect of the jaw portions (col. 4, line 62 - col. 5, line 1).

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spencer (US 794561) in view of Cameron (US 5388313).

Spencer (figure 5) teaches an adjustable clip assembly, comprising: first and second, opposing jaw portions made from a single spring member 7 made of resilient material, the jaw portions having first ends that are joined together and second ends that are spread apart so as to define a receiving area the jaw portions having first and second contoured surfaces inherently usable for engaging sheet material of a tarp positioned within the receiving area, the contoured surfaces comprising a plurality of transverse interfitting, non-interlocking ridges formed on the first and second jaw portions, the interfitting ridges having rounded contours so as to be inherently capable of avoiding damage of the sheet material of a tarp held therein; and a finger-operable adjustment screw 13 interconnecting the first and second jaw portions, for adjustably urging the jaw portions into gripping engagement with an article positioned within the receiving

area. The difference is that while a cord can be readily threaded around the bight portion and knotted or looped thereon so as to form an attachment portion for a cord, there is no attachment portion extending from the joined ends of the jaw portions. However, Cameron (figure 10) teaches clamp assembly structure in which the attachment portion including the aperture for the cord 140 extends from the joined ends of the jaws so as to make it easier to manipulate and monitor the connection to the clamp. As it would be desirable to make securement of a cord to the clamp of Spencer easier, it would have been obvious to modify the clamp of Spencer to have a dedicated structure extending from the joined ends of the jaws as taught by Cameron to make securement of a cord easier.

Claims 17-19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spencer (US 794561) in view of either Byers et al. (US 5046222).

Spencer (figure 5) teaches an adjustable clip assembly, comprising: first and second, opposing jaw portions made from a single spring member 7 made of resilient material, the jaw portions having first ends that are joined together and second ends that are spread apart so as to define a receiving area the jaw portions having first and second contoured surfaces inherently usable for engaging sheet material of a tarp positioned within the receiving area, the contoured surfaces comprising a plurality of transverse interfitting, non-interlocking ridges formed on the first and second jaw portions, the interfitting ridges having rounded contours so as to be inherently capable of avoiding damage of the sheet material of a tarp held therein; and a finger-operable adjustment screw 13 interconnecting the first and second jaw portions, for adjustably urging the jaw portions into gripping engagement with an article positioned within the receiving area. The difference is that while a cord can be readily threaded around the bight portion and

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knotted or looped thereon so as to form an attachment portion for a cord, there is no attachment portion extending from the joined ends of the jaw portions in the form of a hook. However, Byers et al. (figures 6, 8, 9) teaches clamp structure used for many different sheet material including tarpaulins wherein there is an attachment portion 42, 44, 46, 48 extending beyond the clamping structures including an aperture 40 and hook 48 so that the device can be secured to a cord if so desired. As it would be desirable to make securement of a cord to the clamp of Spencer easier, it would have been obvious to modify the clamp of Spencer to have a dedicated structure extending from the joined ends of the jaws as taught by Byers et al. to make securement of a cord easier via either an aperture or a hook.

Claims 1-5, 8, 9, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (US 4097169) in view of Dinkins (US 5245715).

Kelly (figures 1-4) teaches clamp structure for a tarpaulin including first and second opposing jaw portions, the jaw portions having first ends 25, 26 joined together and second ends 15, 16 that are spread apart so as to define a receiving area. There is a screw operator 52 with a wing nut 53 acting as a knob for bringing the jaws into engagement. The tarp is extended around a rod 48 and clamped. The difference is that the jaws lack a plurality of transverse interfitting, non-interlocking ridges formed on the first and second jaw portions, the inter-fitting ridges having rounded contours so as to avoid damaging the tarp. However, Dinkins (figures 1, 2) teaches that in the environment of using a blanket acting as a cover or tarpaulin over beach sand that clamps 11 need not be secured to the blanket via extra rods, but instead can be secured more simply to the blanket by a plurality of transverse interfitting, non-interlocking ridges formed on the first and second jaws 13, 15 having rounded contours (col. 3, lines 1-18). As it would be

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desirable to utilize the clamps of Kelly quickly in many environments, it would have been obvious to modify the clamp of Kelly so as to have jaws that can function to clasp the tarpaulin without the need for a rod in view of Dinkins teaching that in the environment of using a blanket acting as a cover or tarpaulin over beach sand that clamps 11 need not be secured to the blanket via extra rods, but instead can be secured more simply to the blanket by a plurality of transverse interfitting, non-interlocking ridges formed on the first and second jaws 13, 15 having rounded contours (col. 3, lines 1-18). As to claim 4, the single piece of resilient material of the device of Kelly is a unitary structure inherently capable of being molded in a casting process and the process step provides no further structure different from that disclosed by Kelly. In regard to claims 17 and 18, Dinkins suggests providing an extension 12 with an aperture therein for securement of a cord 19 thereto and it would have been obvious to provide the device of Kelly with such structure for easier securement of the cord.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (US 4097169) in view of Dinkins (US 5245715) as applied to claim 5 above, and further in view of Spencer (US 794561).

Further modification of the clamp of Kelly such that the threaded shaft is received in a threaded bore would have been obvious in view of Spencer (figures 4, 5) that teaches the use of a threaded shaft 12 and mating threaded bore 16 in the jaw so as to draw the jaws 10 together.

Claims 15, 16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (US 4097169) in view of Dinkins (US 5245715) as applied to claim 1 above, and further in view of Miller et al. (US 3896527).

Further modification of the clamp of Kelly such that the gripping jaws in the form of rounded contoured surfaces as taught by Dinkins further have surface texturing in the form of a multiplicity of small, raised protrusions forming a grainy surface for engaging a tarp would have been obvious in view of Miller et al. (figures 1, 3) teaching that it is desirable to further provide a surface texturing in the form of a multiplicity of small, raised protrusions 34 forming a grainy surface to enhance the gripping effect of the rounded contoured jaw portions (col. 4, line 62 - col. 5, line 1).

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (US 4097169) in view of Dinkins (US 5245715) as applied to claim 17 above, and further in view of Byers et al. (US 5046222).

Further modification of the attachment portion of Kelly such that there is an attachment portion extending from the joined ends of the jaw portions in the form of a hook would have been obvious in view of Byers et al. (figures 6, 8, 9) teaching clamp structure used for many different sheet material including tarpaulins wherein there is an attachment portion 42, 44, 46, 48 extending beyond the clamping structures including an aperture 40 and hook 48 so that the device can be secured to a cord if so desired as such structure would be desirable to make securement of a cord to the clamp of Kelly easier via either an aperture or a hook.

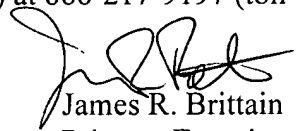
### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents of Rooz (US 4763390, figures 3, 4, 7) and Martin (US 5529083, figure 8) teach pertinent clasp structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
James R. Brittain  
Primary Examiner  
Art Unit 3677

JRB